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EXAMINER
ZHENG, JACKY X

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *November 28, 2003*.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-22* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-22* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☒ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *November 28, 2003* is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *11/28/2003*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This is the initial office action based on the application filed on November 28, 2003.

2.   **Claims 1-22** are currently <u>pending</u>.

Information Disclosure Statement

3.   The information disclosure statement (IDS) submitted on November 28, 2003 was filed

on the mailing date of the application on November 28, 2003. The submission is in compliance

with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being

considered **partially** by the examiner.

4.   The information disclosure statement filed on November 28, 2003, one of the documents

labeled as "**U.S. Application Publication No. 2001/00454801**" has <u>not</u> been considered by the

examiner. The U.S. publication number listed above is <u>not</u> appeared to be a valid publication

number. The remaining documents filed on November 23, 2003 are being considered by the

examiner.

Specification

5.   The disclosure is objected to because it contains an **embedded hyperlink (Paragraph**

[0038] on Page 12 of the Specification of instant application) and/or other form of browser-

executable code. Applicant is required to delete the embedded hyperlink and/or other form of

browser-executable code. See MPEP § 608.01.

6.   The disclosure is objected to because of the following informalities: **Paragraph [0046]**

of the original disclosure, describes a step referring to "**(step S308)**" of Figure 3, however such a

step <u>cannot</u> be found in Figure 3. In contrast, a label of "**S309**" is found in Figure 3 and appears

to be referring to the identical step discussed in Paragraph [0046].

Appropriate correction and clarification is required.

Drawings

7.   The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: **Figure 3 - S309**. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

8.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9.   **Claims 5-10 and 15-18** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims are drawn to "**a user interface**" (claims 5-10) and "**computer-executable program code**" (claims 15-18), which are considered to be "program" per se, which can be characterized as either "functional descriptive material" or "nonfunctional descriptive material".

As functional descriptive material when "consists of data structures and computer programs which impart functionality when employed as a computer component"; and as non-functional descriptive material if it "includes but is not limited to music, literary works and compilation or mere arrangement of data" *(See "Interim Guideline for Examination of Patent Application for Patent Subject Matter Eligibility", ANNEX IV, Page 50).* The claims are being considered as functional descriptive materials in this case. However, "both types of "descriptive material" are nonstatutory when claimed as descriptive material per se".

In addition, even considering the claim as "functional descriptive material" imparts with functionality, but not being employed as a computer component (or other physical structures), is considered as non-statutory. "In contrast, a claimed **computer-readable medium encoded with a computer program... is thus statutory.**" (See *"Interim Guideline for Examination of Patent Application for Patent Subject Matter Eligibility", ANNEX IV, Page 53, First Paragraph;).* Therefore, these two types of "descriptive material" are nonstatutory when claimed as descriptive material per se (See "Interim Guideline for Examination of Patent Application for Patent Subject Matter Eligibility", ANNEX IV, Page 50, Second Paragraph; & ANNEX I, Page 30;).

Claim Rejections - 35 USC § 103

10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11.   **Claims 1-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gindele**

(U.S. Patent No. 6,985,637 B1) and further in view of **Thomas et al. (U.S. Patent No.**

6,525,721 B1).

With regard to claim 1, the claim is drawn to a method for selecting color settings for

rendering color image data and printout of the rendered image using a user interface, comprising:

producing a low-resolution version of the color image data *(Paragraph [0038] of instant*

application, admitted prior art, indicating "the process of producing a low-resolution version of

high-resolution color image data is well known in the art... "); generating a plurality of color

transforms based on a corresponding plurality of different color settings, wherein each color

setting comprises a color setting for rendering the color image data *(see Gindele, i.e. column 4,*

lines 20-57, disclose "image processing parameters" used by "the enhancement rendition

module 230" for processing the source image in order to get "multiple rendered digital images

vary in some other visual characteristics, such as but not limited to, color tone scale, or

contrast.. "); applying each of the plurality of color transforms to said low-resolution version of

the color image data to create a plurality of low-resolution proof images *(see Gindele, i.e.*

column 4, lines 45-49, disclose "the source digital image is received by the multiple rendition

module 212 which produces more than one rendered digital image. The multiple rendered

images 203a-203i (in Figure 1) differ from one another is at least one visual characteristic");

displaying each of the plurality of low-resolution proof images *(see Gindele, i.e. column 4, lines*

56-57, disclose "the multiple rendered digital images 203a-203i (in Figure 1) are then displayed

on a monitor device "); accepting a user selection of one of the plurality of low-resolution proof

images *(see Gindele, i.e. column 5, lines 29-49, disclose various different ways of interacting*

between user and the interface for making an selection); and selecting the color settings

corresponding to the selected low-resolution proof image *(see Gindele, i.e. column 5, lines 49-*

51, disclose based on the user selection, settings are recorded by the digital image processor).

With regard to claim 2, the claim is drawn to a method according to claim 1, further

comprising saving the color settings corresponding to the selected low-resolution proof image in

a custom color management configuration file *(see Gindele, i.e. column 5, lines 49-51, disclose*

based on the user selection, settings are "recorded by the digital image processor").

With regard to claim 3, the claim is drawn to a method according to claim 1, wherein

said color settings include a gamut mapping algorithm selection *(see Gindele, i.e. column 7, line*

61 – column 8, line 30, discloses a "rendering tone scale function", which "the red, green, blue

digital image channels composing the source digital image are transformed into a luminance-

chrominance domain; above-indicated citation further provides with "matrix transformation"

formula between the color spaces or gamut).

With regard to claim 4, the claim is drawn to a method according to claim 1, wherein

said color settings include a ICC profile selection *(The usages of International Color Consortium*

(or ICC) color profile is well-known for one of ordinary skill in the art, however for purpose of

advancing the prosecution, an discussion of such a limitation over a prior art will also be

illustrated as following).

Gindele does not *explicitly* disclose the limitation of utilizing "a ICC profile" .

However, Thomas et al. disclose an invention relates to a graphical and interactive user

interface for user collection and management of color profiles, and explicitly disclose the

limitation of utilizing "a ICC profile" *(see Thomas et al., i.e. column 4, line 65 – column 5, line 7, disclose "International Color Consortium specification ICC.1: 1998-09...").*

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to have modified Gindele to include the limitation of utilizing "a ICC profile" taught by Thomas et al. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified Gindele by the teachings of Thomas et al. to include the limitation of utilizing "a ICC profile" taught by Thomas et al. to provide "information necessary to convert color data between native device color spaces and device independent color spaces" *(column 4, line 66 – column 5, line 1).*

With regard to claim 5, the claim is drawn to a user interface for selecting color settings for rendering color image data and printout of the rendered image, comprising *substantially* identical limitations as recited in claim 1 *(The claim is rejected under the same ground for at least the reasons set forth above. See the detailed discussion of the claim 1 above. Furthermore, both Gindele and Thomas et al., disclose the limitation of software implementations of a user interface, see i.e. Gindele, Figure 1;).*

With regard to claim 6, the claim is drawn to a user interface according to claim 5, further comprising a saving region for saving the color settings corresponding to said one of said plurality of low-resolution proof images in a custom color management configuration file *(The claim is rejected under the same ground for at least the reasons set forth above. See the detailed discussion of the claim 2 above.)*

With regard to claim 7, the claim is drawn to a user interface according to claim 5, wherein said color settings include a gamut mapping algorithm selection *(The claim is rejected under the same ground for at least the reasons set forth above. See the detailed discussion of the claim 3 above).*

With regard to claim 8, the claim is drawn to a user interface according to claim 5, wherein said color settings include an ICC profile selection *(The claim is rejected under the same ground for at least the reasons set forth above. See the detailed discussion of the claim 8 above).*

With regard to claim 9, the claim is drawn to a user interface according to claim 5, wherein said color settings are displayed after the selection of one of said plurality of low-resolution proof images is accepted *(see Gindele, i.e. claim 4, step (f), disclose "displaying a message on the display indicating the one selection of a rendered digital image...").*

With regard to claim 10, the claim is drawn to a user interface according to claim 5, wherein said plurality of low-resolution proof images are categorized and displayed according to at least one color setting *(see Gindele, i.e. column 5, lines 27-29, disclose "the digital images are arranged from darkest to lightest ...").*

With regard to claim 11, the claim is drawn to a computer-readable storage medium in which is stored a program for selecting color settings for rendering color image data and printout of the rendered image using a user interface, said program comprising codes for permitting the computer to perform: a producing step for producing a low-resolution version of the color image data; a generating step for generating a plurality of color transforms based on a corresponding plurality of different color settings, wherein each color setting comprises a color setting for

rendering the color image data; an application step for applying each of the plurality of color transforms to said low-resolution version of the color image data to create a plurality of low-resolution proof images; a display step for displaying each of the plurality of low-resolution proof images; an acceptance step for accepting a user selection of one of the plurality of low-resolution proof images; and a selection step for selecting the color settings corresponding to the selected low-resolution proof image *(The claim is rejected under the same ground for at least the reasons set forth above. See the detailed discussion of the claim 1 above; Furthermore, in Gindele, i.e. column 2, lines 31-34, disclose the teachings of software implementation, and the software to be constructed on a hardware;).*

With regard to claim 12, the claim is drawn to a computer-readable storage medium according to claim 11, further comprising codes for permitting the computer to perform a saving step for saving the color settings corresponding to the selected low-resolution proof image in a custom color management configuration file *(The claim is rejected under the same ground for at least the reasons set forth above. See the detailed discussion of the claim 2 above).*

With regard to claim 13, the claim is drawn to a computer-readable storage medium according to claim 11, wherein said color settings include a gamut mapping algorithm selection *(The claim is rejected under the same ground for at least the reasons set forth above. See the detailed discussion of the claim 3 above).*

With regard to claim 14, the claim is drawn to a computer-readable storage medium according to claim 11, wherein said color settings include a ICC profile selection *(The claim is rejected under the same ground for at least the reasons set forth above. See the detailed discussion of the claim 4 above).*

With regard to claim 15, the claim is drawn to computer-executable program code stored on a computer readable medium, said computer-executable program code for use in a color management system executing in a computer system, for selecting color settings for rendering color image data and printout of the rendered image using a user interface, the computer-executable program code comprising: code for producing a low-resolution version of the color image data; code for generating a plurality of color transforms based on a corresponding plurality of different color settings, wherein each color setting comprises a color setting for rendering the color image data; code for applying each of the plurality of color transforms to said low-resolution version of the color image data to create a plurality of low-resolution proof images; code for displaying each of the plurality of low-resolution proof images; code for accepting a user selection of one of the plurality of low-resolution proof images; and code for selecting the color settings corresponding to the selected low-resolution proof image *(The claim is rejected under the same ground for at least the reasons set forth above. See the detailed discussion of the claim 1 above; Furthermore, in* Gindele, *i.e. column 2, lines 31-34, disclose the teachings of software implementation;)*.

With regard to claim 16, the claim is drawn to computer-executable program code stored on a computer readable medium according to claim 15, the computer-executable program code further comprising code for saving the color settings corresponding to the selected low-resolution proof image in a custom color management configuration file *(The claim is rejected under the same ground for at least the reasons set forth above. See the detailed discussion of the claim 2 above)*.

With regard to claim 17, the claim is drawn to computer-executable program code

according to claim 15, wherein said color settings include a gamut mapping algorithm selection

(The claim is rejected under the same ground for at least the reasons set forth above. See the

detailed discussion of the claim 3 above).

With regard to claim 18, the claim is drawn to computer-executable program code

according to claim 15, wherein said color settings include a ICC profile selection *(The claim is*

rejected under the same ground for at least the reasons set forth above. See the detailed

discussion of the claim 4 above).

With regard to claim 19, the claim is drawn to a programmed computer apparatus for

selecting color settings for rendering color image data and printout of the rendered image using a

user interface, said programmed computer apparatus comprising: means for producing a low-

resolution version of the color image data; means for generating a plurality of color transforms

based on a corresponding plurality of different color settings, wherein each color setting

comprises a color setting for rendering the color image data; means for applying each of the

plurality of color transforms to said low-resolution version of the color image data to create a

plurality of low-resolution proof images; means for displaying each of the plurality of low-

resolution proof images; means for accepting a user selection of one of the plurality of low-

resolution proof images; and means for selecting the color settings corresponding to the selected

low-resolution proof image *(The claim is rejected under the same ground for at least the reasons*

set forth above. See the detailed discussion of the claim 1 above; Furthermore, in <u>Gindele</u>, *i.e.*

column 2, lines 31-34, disclose the teachings of software implementation, and the software to be

constructed on a hardware;).

With regard to claim 20, the claim is drawn to a programmed computer apparatus according to claim 19, the programmed computer apparatus further comprising means for saving the color settings corresponding to the selected low-resolution proof image in a custom color management configuration file *(The claim is rejected under the same ground for at least the reasons set forth above. See the detailed discussion of the claim 2 above).*

With regard to claim 21, the claim is drawn to a programmed computer apparatus according to claim 19, wherein said color settings include a gamut mapping algorithm selection *(The claim is rejected under the same ground for at least the reasons set forth above. See the detailed discussion of the claim 3 above).*

With regard to claim 22, the claim is drawn to a programmed computer apparatus according to claim 19, wherein said color settings include a ICC profile selection *(The claim is rejected under the same ground for at least the reasons set forth above. See the detailed discussion of the claim 4 above).*

Conclusion

12.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

   A. International Color Consortium – Specification, ICC.1:2001-04 [Revision of ICC.1:1998-09]

   B. Sieverding (U.S. Patent No. 5,495,539) discloses an image producing using multi-dimensional selection of image transformations (Figures 1 and 5-7).

   C. Ruml et al. (U.S. Patent No. 6,421,050) disclose a user interface for creation of image generation and transformation functions.
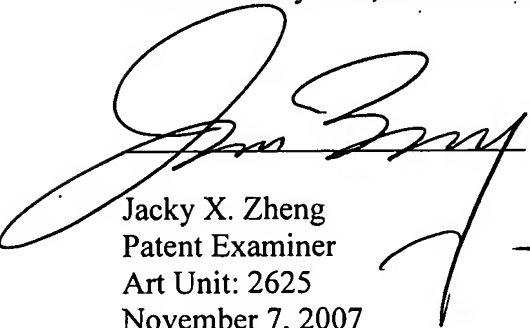
D. <u>Usami et al.</u> (U.S. Patent No. 5,748,342, Canon) disclose an image processing apparatus and method, which allows <u>user to preview an image to be formed before it is formed</u> (Figures 18-21).

E. <u>Balonon-Rosen et al.</u> (U.S. Patent No. 6,307,961) disclose a user-interactive corrective tuning of color profiles.

F. <u>Newman</u> (U.S. Patent No. 6,603,483) discloses a color management and proofing architecture.

G. <u>Matsuzaki et al.</u> (U.S. Patent No. 5,987,165) disclose an image processing system and a preferred <u>gamut adjustment</u> method used for gamut adjustment.

H. <u>Cosgrove et al.</u> (U.S. Patent No. 5,644,647) disclose a user-interactive deduction of scene balance failures.

I. <u>Lee et al.</u> (U.S. Patent No. 5,012,333) disclose an interactive dynamic range adjustment system for printing digital images.

J. <u>Meisner et al.</u> (U.S. Patent No. 6,862,102) disclose a method and apparatus for preparing an image for downloading over a link.

K. <u>Sowinski et al.</u> (U.S. Pub. No. 2001/0053247) disclose a system and method of offering photofinishing services.

L. <u>Winter et al.</u> (U.S. Patent No. 6,535,298) disclose methods for storing and retrieving digital image files, such as photographs.

M. <u>Gibson et al.</u> (U.S. Patent No. 2005/0100211) disclose a system for customer and automatic color management using policy controls.

13.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jacky X. Zheng whose telephone number is (571) 270-1122. The

examiner can *normally* be reached on Monday-Friday, 7:30 a.m.-5p.m., Alt. Friday Off.

    If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Twyler M. Lamb can be reached on (571) 272-7406. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

14.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jacky X. Zheng
Patent Examiner
Art Unit: 2625
November 7, 2007

TWYLER LAMB
SUPERVISORY PATENT EXAMINER